

**VIRGINIA BOARD OF PHARMACY  
MINUTES OF SPECIAL CONFERENCE COMMITTEE  
INFORMAL CONFERENCE COMMITTEE**

Wednesday, August 1, 2007  
Fifth Floor  
Conference Room 4

Department of Health Professions  
6603 West Broad Street  
Richmond, Virginia 23230

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CALL TO ORDER: A meeting of a Special Conference Committee of the Board of Pharmacy was called to order at 10:00 a.m.

PRESIDING: John O. Beckner, Committee Chairman

MEMBERS PRESENT: Jennifer H. Edwards

STAFF PRESENT: Cathy M. Reiniers-Day, Deputy Executive Director  
Mykl D. Egan, DHP Adjudication Specialist

RANDY D. YOST  
License #0202-004870 Randy D. Yost appeared to discuss allegations that he may have violated certain laws and regulations governing the practice of pharmacy as stated in the July 5, 2007 Notice.

Closed Meeting: Ms. Edwards moved, and the Committee voted 2-0 in favor of the motion, to convene a closed meeting pursuant to § 2.2-3711.A.28 of the Code of Virginia for the purpose of deliberation to reach a decision in the matter of Randy D. Yost. Additionally, she moved that Cathy Reiniers-Day and Mykl Egan attend the closed meeting because their presence in the closed meeting was deemed necessary and their presence would aid the Committee in its deliberations.

Reconvene: Ms. Edwards moved, and the Committee voted 2-0 in favor of the motion, that only public business matters lawfully exempted from open meeting requirements and only such public business matters as were identified in the motion for closed meeting were heard, discussed or considered during the closed meeting.

Decision: After consideration of the evidence and statements concerning the allegations, Ms. Edwards moved, and the Committee voted 2-0 in favor of the motion, to close this case as undetermined.

NELSON D. TIDWELL  
License # 0202-007302

Nelson Tidwell appeared with Tracey Tidwell, his spouse; Bill Deane, pharmacist at RX Services; and Bill Fitzpatrick, Corporate Compliance Officer, Omnicare; to discuss allegations that he may have violated certain laws and regulations governing the practice of pharmacy as stated in the July 5, 2007 Notice.

Closed Meeting:

Ms. Edwards moved, and the Committee voted 2-0 in favor of the motion, to convene a closed meeting pursuant to § 2.2-3711.A.28 of the Code of Virginia for the purpose of deliberation to reach a decision in the matter of Nelson D. Tidwell. Additionally, she moved that Cathy Reiniers-Day and Mykl Egan attend the closed meeting because their presence in the closed meeting was deemed necessary and their presence would aid the Committee in its deliberations.

Reconvene:

Ms. Edwards moved, and the Committee voted 2-0 in favor of the motion, that only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act and only such public business matters as were identified in the motion for closed meeting were heard, discussed or considered during the closed meeting.

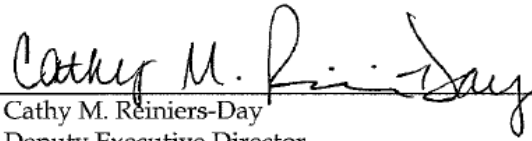
Decision:

After consideration of the evidence and statements concerning the allegations, Ms. Edwards moved, and the Committee voted 2-0 in favor of the motion, that the Committee make the findings of fact, conclusions of law and sanctions as stated in Attachment 1.

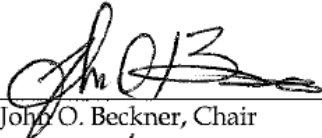
As provided by law, this decision shall become a final Order thirty days after service of such Order on Mr. Tidwell unless a written request to the Board for a formal hearing on the allegations made against him is received from Mr. Tidwell within such time. If service of the Order is made by mail, three additional days shall be added to that period. Upon such timely request for a formal hearing, the decision of this Special Conference Committee shall be vacated.

ADJOURN:

With all business concluded, the meeting adjourned at 1:15 p.m.

  
Cathy M. Reiniers-Day

Deputy Executive Director

  
John O. Beckner, Chair

9/12/07  
Date

Nelson Tidwell

Findings of Fact and Conclusions of Law:

After consideration of the evidence and statements concerning the allegations, the Committee makes the following findings of fact and conclusions of law:

- Nelson D. Tidwell holds license number 0202-007302 issued by the Board to practice pharmacy in the Commonwealth of Virginia.
- During the course of Mr. Tidwell's employment as the pharmacist-in-charge of RX Services, Abingdon, Virginia, an inspection conducted on November 8, 2006, disclosed the following deficiencies:
  - Mr. Tidwell violated § 54.1-3316(7) and § 54.1-3320(A)(7) of the Code and 18 VAC 110-20-270(B) of the Board of Pharmacy Regulations ("Regulations") in that the ratio of pharmacy technicians to pharmacists was greater than the permitted four to one ratio. For example, from 7:00 a.m. to 8:00 a.m., the ratio was one pharmacist to twelve technicians, and from 8:00 a.m. to 6:30 p.m., the ratio was seven pharmacists to thirty-four technicians.
  - Mr. Tidwell violated § 54.1-3316(7) and § 54.1-3404(C) of the Code in that all of the Schedule III, IV and V drug invoices were not dated with the actual receipt of the drugs.
  - Mr. Tidwell violated § 54.1-3316(7) of the Code and 18 VAC 110-20-355(B) of the Regulations in that filled prescriptions that were returned to stock were either not properly labeled or simply returned to the stock bottles.
  - Mr. Tidwell violated § 54.1-3316(7) and § 54.1-3320(6) of the Code and 18 VAC 110-20-270(C) of the Regulations in that the pharmacy utilizes a barcode scanning system for a large percentage of the prescriptions it dispenses. The pharmacist did not check the final product to verify the accuracy of the prescription.
  - Mr. Tidwell violated § 54.1-3316(7) of the Code and 18 VAC 110-20-210 of the Regulations in that drugs were being disposed of using a "sharps" container and being picked up by a company that did not have the authority to dispose of the drugs.
  - Mr. Tidwell violated § 54.1-3316(7) and § 54.1-3420.2(B) of the Code and 18 VAC 110-20-275(B) of the Regulations in that prescriptions were filled at this location (Abingdon) and routinely delivered to RX Services, Colonial Heights, Virginia, for delivery to long term care facilities. There were no written procedures detailing the policy and protocol for delivery of drugs from one pharmacy to another.
  - Mr. Tidwell violated § 54.1-3316(7) of the Code and 18 VAC 110-20-520 of the Regulations in that he was providing floor stock drugs for a long term care facility.

- Mr. Tidwell violated § 54.1-3316(7) of the Code and 18 VAC 110-20-250(A)(4) of the Regulations in that the daily log signed by the pharmacists did not indicate the intent of the signatures.
- Mr. Tidwell violated § 54.1-3316(7), § 54.1-3320(A)(6), and § 54.1-3410(B)(2) of the Code in that the facility was dispensing Schedule III to VI prescriptions that did not have a quantity or the stop date of the drug by the practitioner. This error was noted in a prior inspection.
- Mr. Tidwell violated § 54.1-3316(7) and § 54.1-3410(A)(1) of the Code in that Schedule II drug prescriptions were being filled in non-emergency situations before the signed orders were received.
- Mr. Tidwell violated § 54.1-3316(7) of the Code and 18 VAC 110-20-240(A)(1) of the Regulations in that inventories and records of Schedule II drugs were with inventories and records of Schedule III to VI drugs.
- Mr. Tidwell violated § 54.1-3316(7) of the Code and 18 VAC 110-20-540(2) of the Regulations in that an emergency drug kit prepared for a facility contained a Kayexalate (Schedule VI) suspension for oral administration.
- Mr. Tidwell violated § 54.1-3316(7) of the Code and 18 VAC 110-20-330(1)(B) of the Regulations in that, when generic drugs were dispensed, the label included the drug brand name and the generic name without including terminology indicating that the generic version of the drug was being dispensed.
- Mr. Tidwell violated § 54.1-3316(7) and § 54.1-3321(A) of the Code in that, between November 2005 and November 2006, he allowed nine employees to perform the duties of a pharmacy technician even though they were not registered as pharmacy technicians by the Board nor were they enrolled in an approved training program at that time. More specifically:

EMPLOYEE	DATES OF HIRE
A	November 3, 2005 - November 7, 2006
B	February 2006 - November 7, 2006
C	May 6, 2006 - November 7, 2006
D	May 30, 2006 - November 7, 2006
E	September 5, 2006 - November 7, 2006
F	September 13, 2006 - November 7, 2006
G	October 2, 2006 - November 7, 2006
H	November 6, 2006 - November 7, 2006
I	November 6, 2006 - November 7, 2006

- Mr. Tidwell produced documentation showing that corrective measures have been taken towards the violations cited above.

#### Sanction

- Within eighteen months from the date this Order becomes final, Nelson D. Tidwell, at the RX Services, Abingdon, Virginia, location shall be subject to not less than two unannounced inspections, to include photographs, by the Board or its designated representatives. Mr. Tidwell is solely responsible for the payment of the inspection fee, to be paid to the Board within thirty

(30) days of the statement. If said fee is not received within the prescribed deadline, an additional One Hundred Dollars (\$100.00) late fee shall be assessed weekly, up to a maximum of One Thousand Dollars (\$1000.00). Failure to pay the full fee plus the additional assessment within one hundred (100) days of each audit/inspection shall constitute grounds for an administrative proceeding.